

## Farm Credit Administration

## § 602.17

### § 602.12 Fees.

(a) FCA may charge:

(1) For manual searches for records and for review, the pro rated cost of the salary of the employee doing the work.

(2) For computer searches for records, the direct costs of computer search time and supply or material costs.

(3) For each page made by photocopy or similar method, fifteen cents a page, and for other forms of copying, the direct costs.

(4) The direct costs of elective services, such as certifying records as true copies or sending records by special methods.

(b) We will not charge fees when total assessed fees are less than \$15.00.

(c) You must pay by personal check, bank draft drawn on a United States bank, or postal money order made payable to the Treasury of the United States.

(d) We treat a request about yourself under Privacy Act fee rules.

(e) The information in paragraphs (a) and (b) of this section is presented in the table to this paragraph. Direct costs means the costs FCA incurs in searching for, reviewing, and reproducing documents to respond to a request. Direct costs include pro rated salary and reproduction costs. We will not charge fees when they total less than \$15.00.

FEE AMOUNTS TABLE

Type of fee	Amount of fee
Manual Search and Review .....	Pro rated Salary Costs.
Computer Search .....	Direct Costs.
Photocopy .....	\$0.15 a page.
Other Reproduction Costs .....	Direct Costs.
Elective Services .....	Direct Costs.

### § 602.13 Fee waiver.

We may waive or reduce fees if disclosure is not mostly in your commercial interest but, instead, is in the public interest because it will advance public understanding of the Federal government's operations or activities.

### § 602.14 Advance payments—notice.

(a) If fees will be more than \$25.00 and you have not told us in advance that

you will pay estimated fees, we will tell you the estimated amount and ask that you agree to pay it. Except as noted in this section, we will begin processing the FOIA request when we receive your agreement to pay.

(b) If estimated fees exceed \$250.00 and you have a history of promptly paying fees charged for information requests, we may respond to your request based on your agreement to pay.

(c) If estimated fees exceed \$250.00 and you have no history of paying fees, we may require you to pay in advance.

(d) If you have previously failed to pay fees for information requests or paid them late, you must pay any fees still owed, plus interest calculated under § 602.15, and the estimated fees before we will respond to a new or a pending request.

(e) If we require advance payment or an advance agreement to pay, we will not consider your request to be received and will not respond to it until you meet the requirement.

### § 602.15 Interest on unpaid fees.

If you fail to pay fees on time, FCA may charge you interest starting on the 31st calendar day following the date we bill you. We will charge you interest at the rate allowed by law (31 U.S.C. 3717) on the billing date.

### § 602.16 Combining requests.

You may not avoid paying fees by filing multiple requests at the same time. When FCA reasonably believes that you, alone or with others, are breaking down a request into a series of requests to avoid fees, we will combine the requests and charge accordingly. We will assume that multiple requests within a 30-day period have been made to avoid fees.

## Subpart D—Testimony and Production of Documents in Legal Proceedings in Which FCA is Not a Named Party

### § 602.17 Policy.

(a) The rules in this subpart preserve the confidentiality of FCA's documents and information, conserve employees' time for official duties, uphold fairness in litigation, and help the Chairman

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decide when to allow testimony and to produce documents. This subpart does not affect access to documents under the FOIA or the Privacy Act. See subpart B of this part and part 603 of this chapter.

(b) Generally, we will not produce documents voluntarily and employees will not appear as witnesses voluntarily in any legal proceeding. However, in limited circumstances, the Chairman may allow the production of documents or testimony when the Chairman decides it would be in the best interest of FCA or the public. All privileged documents produced under this subpart remain our property. Any employee having information or privileged documents may disclose them only as allowed by the Chairman.

### § 602.18 Definitions.

*Court* means any entity conducting a legal proceeding.

*Demand* means any order, subpoena, or other legal process for testimony or documents.

*Direct costs* means FCA's costs to search for, review, and reproduce documents to respond to a request. Direct costs include the pro rated cost of the salary of the employee performing the work (based on the basic rate of pay plus 16 percent to cover benefits) and the cost of operating reproduction equipment.

*Document* means any record or other documentary materials, such as books, papers, maps, photographs, and machine-readable materials, regardless of physical form or characteristics (for example, electronic format) in our possession and control when we receive the request.

*Employee* means any present or former FCA employee, any present or former FCA Board member, any former Federal Farm Credit Board member, any present or former FCA-appointed receiver or conservator, and any present or former agent or contractor.

*FCA Counsel* means the General Counsel, a Department of Justice attorney, or counsel authorized by FCA to act for the FCA or an employee.

*General Counsel* means the FCA's General Counsel or designee.

*Legal proceeding* means any administrative, civil, or criminal proceeding,

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including a discovery proceeding, before a court when FCA is not a named party and has not instituted the legal proceeding.

### § 602.19 Request for testimony or production of documents.

(a) *How to make and address a request.* Your request for an employee's testimony about official matters or the production of documents must be in writing and addressed to the General Counsel, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

(b) Your request must contain the following:

- (1) Title of the case;
- (2) Forum;
- (3) Your interest in the case;
- (4) Summary of the litigation issues;
- (5) Reasons for the request;
- (6) Why the confidential information is important; and

(7) An explanation of why the testimony or document you want is not reasonably available from another source. If you want testimony, you must also state how you intend to use the testimony, provide a subject matter summary of the requested testimony, and explain why a document could not be used instead.

(c) The General Counsel may ask you to limit your request to make it less burdensome or to give us information to help us decide if providing documents or testimony is in the public interest.

### § 602.20 Testimony of FCA employees.

(a) An employee may testify only as the Chairman approves in writing. Generally, an employee may testify only by deposition or written interrogatory. An employee may give only factual testimony and may not give opinion testimony.

(b) If, in response to your request, the Chairman decides that an employee may testify, you must serve the employee with a subpoena under applicable Federal or State rules of procedure and at the same time send a copy of the subpoena by registered mail to the General Counsel.

(c) Normally, depositions will be taken at the employee's office, at a time convenient to the employee and